

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

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| ROBBIE DANIELS, | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | CIVIL ACTION NO. 5:19-CV-00162-RWS-CMC |
| | § | |
| TEXARKANA TEXAS P.D., ET AL., | § | |
| | § | |
| Defendants. | § | |

ORDER

Plaintiff Robbie Daniels, proceeding *pro se*, filed the above-styled and numbered civil action complaining of alleged violations of his constitutional rights. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Plaintiff claimed that a Texarkana police officer named Zierre Spencer was deliberately indifferent to his serious medical needs after Plaintiff was involved in a one-car accident on August 10, 2019. Docket No. 1. Officer Spencer has answered the lawsuit. Docket No. 21. On May 7, 2021, the Magistrate Judge ordered Plaintiff to “disclose all information relevant to the claims or defenses of any party.” Docket No. 25 at 1. On September 17, 2021, the Magistrate Judge ordered Plaintiff to disclose any medical reports or information pertaining to the accident as well as the names and addresses of any health care providers whom he saw for this issue. Docket No. 29. The Magistrate Judge also ordered Plaintiff to sign and return a medical authorization allowing counsel to subpoena his medical records, warning Plaintiff that failure to comply could result in the dismissal of the lawsuit. *Id.*

On October 14, 2021, Plaintiff sent a letter to the Court repeating his claims about Officer Spencer, but providing no information about his medical records or providers. Docket No. 31. On

November 1, 2021, and January 4, 2022, Officer Spencer provided notices to the Court concerning Plaintiff's failure to comply. Docket Nos. 32, 33. Counsel for Officer Spencer indicates he has contacted Plaintiff multiple times, but Plaintiff has not complied with the Magistrate Judge's orders or furnished any information about his medical records, treatment or providers. Docket No. 33. On January 19, 2022, Plaintiff filed a motion for appointment of counsel saying that "this guy keeps writing me and I don't know what he's talking about," that he does not understand what is going on and that he does not think it is fair that "he has an attorney and I don't." Docket No. 34.

After review of the pleadings and records, the Magistrate Judge issued a Report on March 21, 2022, recommending that the lawsuit be dismissed for failure to prosecute or to obey an order of the Court. Docket No. 35. The Magistrate Judge observed that Plaintiff has been told by the Court and at least twice by defense counsel that he must identify the doctors, hospitals or health care providers who treated him after the accident forming the basis of his lawsuit. He has been provided with an authorization form, which he left blank. The Magistrate Judge stated that the Court's orders were not complicated or difficult to understand, and that Plaintiff's failure to comply warrants dismissal of the case. The Magistrate Judge further stated that the question of dismissal with or without prejudice was a close one, but recommended dismissal without prejudice with a suspension of the limitations period.

Plaintiff received a copy of the Magistrate Judge's Report on March 28, 2022, but has filed no objections. Docket No. 36. Accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017).

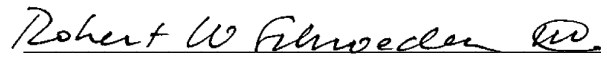
The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (Docket No. 35) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further

ORDERED that the limitations period is suspended for a period of 60 days following the date of entry of final judgment.

So ORDERED and SIGNED this 15th day of June, 2022.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE